

REMARKS

The Examiner is thanked for withdrawing the election of species requirement and for considering the Information Disclosure Statement.

Claims 4 to 10 were objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claims should refer to other claims in the alternative only. In response, the multiple dependent claims have been canceled.

At page 3 of the Office Action, claims 1 to 3 were rejected under 35 U.S.C. 102(b) as being anticipated by Pianotti (EP 0244363 A1).

Reconsideration is requested.

Pianotti was applied as disclosing an antimicrobial composition in the form of a mouthwash comprising, as also admitted by the Examiner, a water-alcohol phase in which essential oil is slubilized. Essential oils comprise thymol, eucalyptol, methyl salicylate, menthol. The claimed mouthwash composition does not comprise essential oils but vegetable oils, mineral oils, aromatic oils as well as aliphatic esters, aliphatic ethers, aliphatic alcohols, triglycerides and aliphatic hydrocarbons.

The difference between the prior oils and the oils now claimed in new claim 11 is fundamental both for a chemical standpoint and a functional standpoint.

In fact, Applicant's oils, which constitute the base of Applicant mouthwash antibacterial composition are contained in a comparatively high amount, from 5% to 40% and are present in a stable emulsion as a suitable oil in water (O/W) emulsifier system.

The oils mentioned by Pianotti, on the

contrary, are essential oils used in a very small amount of 0.05%-10% as active antibacteric principles that are solubilized in a high water-alcohol phase.

Even from a visual standpoint, the prior mouthwash composition is different since Applicant's mouthwash composition is an opaque or opalescent fluid emulsion, whereas the prior composition is a transparent solution.

Moreover, in use the two compositions operate in a different manner. Applicant's composition provides a oil film that adheres to the surfaces of the mouth cavity, whereas the prior mouthwash is not designed or adapted to provide this strong adhesion property, since is a traditional composition which is easily removed by rinsing the inner cavity of the mouth.

In this connection, for information of the Examiner, it is herein stated that for demonstrating the greater adhesive capability of Applicant's composition, an intensive clinic experimentation work has been performed at the University of Pavia, where a traditional formulation like that of Pianotti has been just compared with Applicant's composition. The experimental results have indicated that the claimed mouthwash has an antibacterial efficiency of long duration.

For these reasons new claim 11 and the claims that are dependent on claim 11 define unobvious subject matter and it is requested that this ground of rejection be withdrawn.


In response to the provisional rejection for double patenting, it is requested that this ground of rejection be withdrawn. The claims of Serial No. 11/500,253 relate to a semi-solid toothpaste while the present application relates to a liquid mouthwash. No reference has been cited to show that it is

obvious to formulate a mouthwash based on a toothpaste. In fact, a mouthwash antibacterial composition in the form of a stable emulsified opaque liquid is different from a semi-solid toothpaste and, moreover, application Serial No. 11/500,253 does not disclose an antibacterial composition including the oils of new claim 11, in the stated amounts. For these reasons, it is submitted that new claims 11 to 14 avoid the obvious-type double patenting rejection.

Accordingly, allowance of new claims 11 to 14 is respectfully solicited.

An early and favorable action is earnestly solicited.

Respectfully submitted,


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